



General Assembly

**Amendment**

February Session, 2010

LCO No. 4967

**\*HB0543404967HR0\***

Offered by:

REP. O'NEILL, 69<sup>th</sup> Dist.

REP. OLSON, 46<sup>th</sup> Dist.

To: Subst. House Bill No. **5434**

File No. 551

Cal. No. 353

**"AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO  
THE COMMON INTEREST OWNERSHIP ACT."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 47-216 of the 2010 supplement to the general  
4 statutes, as amended by section 5 of public act 09-225, is repealed and  
5 the following is substituted in lieu thereof (*Effective July 1, 2010*):

6 (a) Except as provided in section 47-217, sections 47-202, 47-204, 47-  
7 205, 47-206, 47-218, 47-221, 47-222, 47-223, subsections (b), (d), (i) and  
8 (j) of section 47-236, sections 47-237, 47-240 [,] and 47-244, subsection (f)  
9 of section 47-245, sections 47-250, 47-251, 47-252, 47-253, 47-255, 47-257,  
10 47-258, 47-260, 47-261b, 47-261c, 47-261d, 47-261e, 47-270 and 47-278, to  
11 the extent necessary in construing any of those sections, apply to all  
12 common interest communities created in this state before January 1,  
13 1984; but those sections apply only with respect to events and  
14 circumstances occurring after January 1, 1984, and do not invalidate

15 existing provisions of the declaration, bylaws or surveys or plans of  
16 those common interest communities.

17 (b) Section 47-210 and subsections (b) to (d), inclusive, of section 47-  
18 225 apply to all common interest communities created in this state  
19 prior to January 1, 1984, but shall not invalidate existing provisions of  
20 the declarations, bylaws or surveys or plans of those common interest  
21 communities.

22 Sec. 502. Subsection (i) of section 47-236 of the 2010 supplement to  
23 the general statutes, as amended by section 16 of public act 09-225, is  
24 repealed and the following is substituted in lieu thereof (*Effective July*  
25 *1, 2010*):

26 (i) If any provision of this chapter or of the declaration or bylaws of  
27 any common interest community created before, on or after January 1,  
28 1984, requires the consent of a person holding a security interest in a  
29 unit as a condition to the effectiveness of any amendment to the  
30 declaration or bylaws, that consent shall be deemed granted if a refusal  
31 to consent in a record is not received by the association within forty-  
32 five days after the association delivers notice of the proposed  
33 amendment to the holder of the interest or mails the notice to the  
34 holder of the interest by certified mail, return receipt requested. The  
35 association may rely on the last-recorded security interest of record in  
36 delivering or mailing notice to the holder of that interest.  
37 Notwithstanding any provision of this section, an amendment to the  
38 declaration or bylaws that affects the priority of a holder's security  
39 interest, other than an amendment regarding the priority of the  
40 association's lien authorized by section 47-258 or the ability of that  
41 holder to foreclose its security interest may not be adopted without  
42 that holder's consent in a record if the declaration [requires] or bylaws  
43 require that consent as a condition to the effectiveness of the  
44 amendment.

45 Sec. 503. Section 47-248 of the 2010 supplement to the general  
46 statutes, as amended by section 24 of public act 09-225, is repealed and

47 the following is substituted in lieu thereof (*Effective July 1, 2010*):

48 (a) The bylaws of the association shall: (1) Provide the number of  
49 members of the executive board and the titles of the officers of the  
50 association; (2) unless otherwise specified in the declaration, provide  
51 for election by either the executive board or the unit owners of a  
52 president, treasurer, secretary and any other officers of the association  
53 the bylaws specify; (3) specify the qualifications, powers and duties,  
54 terms of office and manner of electing and removing executive board  
55 members and officers and filling vacancies; (4) specify the powers the  
56 executive board or officers may delegate to other persons or to a  
57 managing agent; (5) specify the officers who may prepare, execute,  
58 certify and record amendments to the declaration on behalf of the  
59 association; (6) specify a method for amending the bylaws; (7) contain  
60 any provision necessary to satisfy requirements in this chapter or the  
61 declaration concerning meetings, voting, quorums and other activities  
62 of the association; and (8) provide for any matter required by the law  
63 of this state other than this chapter, which is not inconsistent with this  
64 chapter, to appear in the bylaws of organizations of the same type as  
65 the association.

66 (b) Subject to the declaration and this chapter, the bylaws may  
67 provide for any other necessary or appropriate matters including  
68 matters that could be adopted as rules.

69 Sec. 504. Subsection (f) of section 47-261b of the 2010 supplement to  
70 the general statutes is repealed and the following is substituted in lieu  
71 thereof (*Effective July 1, 2010*):

72 (f) An association may adopt rules that affect the use of or behavior  
73 in units that may be used for residential purposes, only to:

74 (1) Implement a provision of the declaration;

75 (2) Regulate any behavior in or occupancy of a unit which violates  
76 the declaration or adversely affects the use and enjoyment of other  
77 units or the common elements by other unit owners; or

78 (3) Restrict the leasing of residential units to the extent those rules  
79 are reasonably designed to meet underwriting requirements of  
80 institutional lenders that regularly make loans secured by first  
81 mortgages on units in common interest communities or regularly  
82 purchase those mortgages, provided no such restriction shall be  
83 enforceable unless notice thereof is recorded on the land records of  
84 each town in which any part of the common interest community is  
85 located. Such notice shall be indexed by the town clerk in the grantor  
86 index of such land records in the name of the association.

87 Sec. 505. Section 47-270 of the 2010 supplement to the general  
88 statutes, as amended by section 41 of public act 09-225, is repealed and  
89 the following is substituted in lieu thereof (*Effective July 1, 2010*):

90 (a) Except in the case of a sale in which delivery of a public offering  
91 statement is required under either this chapter or chapter 825, or  
92 unless exempt under subsection (b) of section 47-262, a unit owner  
93 shall furnish to a purchaser or such purchaser's attorney, before the  
94 earlier of conveyance or transfer of the right to possession of a unit, a  
95 copy of the declaration, other than any surveys and plans, the bylaws,  
96 the rules or regulations of the association, and a certificate containing:  
97 (1) A statement disclosing the effect on the proposed disposition of any  
98 right of first refusal or other restraint on the free alienability of the unit  
99 held by the association; (2) a statement setting forth the amount of the  
100 periodic common expense assessment and any unpaid common  
101 expense or special assessment currently due and payable from the  
102 selling unit owner; (3) a statement of any other fees payable by the  
103 owner of the unit being sold; (4) a statement of any capital  
104 expenditures in excess of one thousand dollars approved by the  
105 executive board for the current and next succeeding fiscal year; (5) a  
106 statement of the amount of any reserves for capital expenditures; (6)  
107 the current operating budget of the association; (7) a statement of any  
108 unsatisfied judgments against the association and the existence of any  
109 pending suits or administrative proceedings in which the association is  
110 a party, including foreclosures but excluding other collection matters;  
111 (8) a statement of the insurance coverage provided for the benefit of

112 unit owners, including any schedule of standard fixtures,  
113 improvements and betterments in the units covered by the  
114 association's insurance that the association prepared pursuant to  
115 subsection (b) of section 47-255; (9) a statement of any restrictions in  
116 the declaration affecting the amount that may be received by a unit  
117 owner on sale, condemnation, casualty loss to the unit or the common  
118 interest community or termination of the common interest community;  
119 (10) in a cooperative, an accountant's statement, if any was prepared,  
120 as to the deductibility for federal income tax purposes by the unit  
121 owner of real property taxes and interest paid by the association; (11) if  
122 the association is unincorporated, the name of the statutory agent for  
123 service of process filed with the Secretary of the State pursuant to  
124 section 47-244a; (12) a statement describing any pending sale or  
125 encumbrance of common elements; (13) a statement disclosing the  
126 effect on the unit to be conveyed of any restrictions on the owner's  
127 right to use or occupy the unit or to lease the unit to another person;  
128 (14) a statement disclosing the number of units whose owners are at  
129 least sixty days' delinquent in paying their common charges on a specified date within sixty days of the date of the statement; (15) a  
130 statement disclosing the number of foreclosure actions brought by the  
131 association during the past twelve months and the number of such  
132 actions pending on a specified date within sixty days of the date of the  
133 statement; and (16) any established maintenance standards adopted by  
134 the association pursuant to subsection (e) of section 47-257.

136 (b) (1) Not later than ten business days after receipt of a request in a  
137 record from a unit owner and payment by the unit owner of a fee  
138 established by the association that does not exceed one hundred  
139 twenty-five dollars plus either five cents for each page of document  
140 copies provided by the association pursuant to this section or a flat fee  
141 of ten dollars for an electronic version of those documents, for the  
142 preparation of the certificate and other documents, the association  
143 shall furnish a certificate containing the information necessary to  
144 enable the unit owner to comply with this section and any other  
145 documents required by this section. [The association shall itemize the

146 actual printing, photocopying and related costs and provide a list of  
147 the itemized costs to the unit owner with the certificate and  
148 documents.] An additional fee of not more than ten dollars for  
149 expedited preparation may be established if the certificate and all  
150 required documents are furnished to the unit owner not later than  
151 three business days after the request in a record is received by the  
152 association. No fee under this subsection may include costs for services  
153 provided by an attorney or paralegal.

154 (2) A unit owner providing a certificate and documents pursuant to  
155 subsection (a) of this section is not liable to the purchaser for any  
156 erroneous information provided by the association and included in the  
157 certificate and documents.

158 (c) A purchaser is not liable for any unpaid assessment or fee greater  
159 than the amount set forth in the certificate prepared by the association.  
160 A unit owner is not liable to a purchaser for the failure or delay of the  
161 association to provide the certificate and documents in a timely  
162 manner, but the purchase contract is voidable by the purchaser until  
163 (1) the expiration of five days, excluding Saturdays, Sundays and legal  
164 holidays, after the certificate and documents have been delivered to  
165 such purchaser or such purchaser's attorney, or seven days, excluding  
166 Saturdays, Sundays and legal holidays, after the certificate and  
167 documents have been sent by registered or certified mail or mail  
168 evidenced by a certificate of mailing to such purchaser or such  
169 purchaser's attorney, or (2) conveyance, whichever first occurs.

170 (d) A dealer who offers a unit which he owns shall, in addition to  
171 the material provided to a purchaser or such purchaser's attorney  
172 under subsection (a) of this section, furnish to such purchaser or such  
173 purchaser's attorney a copy of any public offering statement that the  
174 dealer received at the time he purchased his unit.

175 (e) The association shall, during the month of January in each year,  
176 file in the office of the town clerk of the municipality or municipalities  
177 where such common interest community is located a certificate setting

178 forth the name and mailing address of the officer of the association or  
179 the managing agent from whom a resale certificate may be requested,  
180 and shall, thereafter, file such a certificate within thirty days of any  
181 change in the name or address of such officer or agent. The town clerk  
182 shall record such certificate in the land records.

183 Sec. 506. Subsection (b) of section 47-250 of the 2010 supplement to  
184 the general statutes, as amended by section 25 of public act 09-225, is  
185 repealed and the following is substituted in lieu thereof (*Effective July*  
186 *1, 2010*):

187 (b) The following requirements apply to meetings of the executive  
188 board and committees of the association authorized to act for the  
189 association:

190 (1) Meetings shall be open to the unit owners and to a representative  
191 designated by any unit owner except during executive sessions. The  
192 executive board and those committees may hold an executive session  
193 only during a regular or special meeting of the board or a committee.  
194 No final vote or action may be taken during an executive session. An  
195 executive session may be held only to: (A) Consult with the  
196 association's attorney concerning legal matters; (B) discuss existing or  
197 potential litigation or mediation, arbitration or administrative  
198 proceedings; (C) discuss labor or personnel matters; (D) discuss  
199 contracts, leases and other commercial transactions to purchase or  
200 provide goods or services currently being negotiated, including the  
201 review of bids or proposals, if premature general knowledge of those  
202 matters would place the association at a disadvantage; or (E) prevent  
203 public knowledge of the matter to be discussed if the executive board  
204 or committee determines that public knowledge would violate the  
205 privacy of any person.

206 (2) For purposes of this section, a gathering of board members at  
207 which the board members do not conduct association business is not a  
208 meeting of the executive board. The executive board and its members  
209 may not use incidental or social gatherings of board members or any

210 other method to evade the open meeting requirements of this section.

211 (3) Notwithstanding any actions taken by unanimous consent  
212 pursuant to subdivision (8) of subsection (b) of this section, during and  
213 after the period of declarant control, the executive board shall meet at  
214 least two times a year at the common interest community or at a place  
215 convenient to the community. Those meetings, and after termination of  
216 the period of declarant control, all executive board meetings, shall be  
217 at the common interest community or at a place convenient to the  
218 community unless the bylaws are amended to vary the location of  
219 those meetings.

220 (4) At each executive board meeting, the executive board shall  
221 provide a reasonable opportunity for unit owners to comment  
222 regarding any matter affecting the common interest community and  
223 the association.

224 (5) Unless the meeting is included in a schedule given to the unit  
225 owners or the meeting is called to deal with an emergency, the  
226 secretary or other officer specified in the bylaws shall give notice of  
227 each executive board meeting to each board member and to the unit  
228 owners. The notice shall be given at least [ten] five days before the  
229 meeting and shall state the time, date, place and agenda of the  
230 meeting, except that notice of a meeting called to adopt, amend or  
231 repeal a rule shall be given in accordance with subsection (a) of section  
232 47-261b, as amended by this act.

233 (6) If any materials are distributed to the executive board before the  
234 meeting, the executive board at the same time shall make copies of  
235 those materials reasonably available to unit owners, except that the  
236 board need not make available copies of unapproved minutes or  
237 materials that are to be considered in executive session.

238 (7) Unless prohibited by the declaration or bylaws, the executive  
239 board may meet by telephonic, video or other conferencing process if  
240 (A) the meeting notice states the conferencing process to be used and  
241 provides information explaining how unit owners may participate in



242 the conference directly or by meeting at a central location or  
243 conference connection; and (B) the process provides all unit owners the  
244 opportunity to hear or perceive the discussion and offer comments as  
245 provided in subdivision (4) of this subsection.

246 (8) Instead of meeting, the executive board may act by unanimous  
247 consent as documented in a record authenticated by all its members.  
248 The secretary promptly shall give notice to all unit owners of any  
249 action taken by unanimous consent.

250 (9) Even if an action by the executive board is not in compliance  
251 with this section, it is valid unless set aside by a court. A challenge to  
252 the validity of an action of the executive board for failure to comply  
253 with this section may not be brought more than sixty days after the  
254 minutes of the executive board of the meeting at which the action was  
255 taken are approved or the record of that action is distributed to unit  
256 owners, whichever is later."